

SHAWN J. KOLITCH, OSB No. 063980
E-mail: shawn@krdglaw.com
KOLITCH ROMANO DASCENZO GATES LLC
621 SW Morrison Street #1100
Portland, OR 97205
Telephone: (503) 994-1650
Facsimile: (503) 224-7329

Attorneys for Plaintiff
FUTURE MOTION, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

FUTURE MOTION, INC.,

Plaintiff,

v.

TONY LAI, an individual doing business
as FLOATWHEEL,

Defendant.

Case No. 3:23-cv-01742-AR

**DECLARATION OF SHAWN J.
KOLITCH IN SUPPORT OF
PLAINTIFF'S MOTION FOR
CONTEMPT AND SANCTIONS
AGAINST NONPARTY GOOGLE
LLC, D/B/A YOUTUBE**

I, Shawn J. Kolitch, hereby declare as follows:

1. I am lead counsel in this action. I am a member in good standing of the Oregon Bar and the Federal District Court for the District of Oregon.

2. In the proposed order for a preliminary injunction I submitted to the Court on December 29, 2023 (ECF No. 13), I changed the language relative to the TRO the

Court had granted previously by requiring YouTube either to disable the entire Floatwheel channel or to disable all of Defendant's infringing videos without limitation, rather than merely requiring YouTube to disable a specific list of videos. I made these changes because Defendant had published at least five additional videos to its YouTube channel after Future Motion filed its motion for a TRO, and because YouTube had failed to take any discernable action after I provided notice of the TRO.


3. From December 17, 2023 through October 2, 2024, I provided notice of the Court's injunctive orders to YouTube numerous times. Specifically, I sent a notice message with a copy of the TRO through YouTube's electronic legal support portal on December 17, 2023; I sent a notice letter with a copy of the TRO via FedEx to YouTube at its corporate headquarters on December 18, 2023; I sent both an electronic notice through YouTube's electronic legal support portal and a notice letter with a copy of the First Preliminary Injunction Order via FedEx to YouTube's registered agent on January 2, 2024; and I sent three separate notice letters with copies of the Second Preliminary Injunction Order via FedEx to YouTube's registered agent on June 20, 2024, July 30, 2024, and October 2, 2024, respectively. Each time, I pointed out how the order pertains to YouTube, and requested that YouTube comply with the order. Attached as Exhibit A to my declaration are true and correct copies of my letters and electronic communications with YouTube regarding the Court's orders in this action, omitting the attachments containing copies of the actual orders.

4. Currently, any person in the United States using a VPN can access the entire Floatwheel YouTube channel at www.youtube.com/floatwheel, with no limitations. This includes all portions of the channel that have been specifically enjoined by the Court (i.e., the 43 videos specifically listed and enjoined in the TRO, the additional five videos specifically listed and enjoined in the first preliminary injunction), a number of Floatwheel videos published more recently that induce infringement of Future Motion's asserted patents, and the entire Floatwheel YouTube "Community" page that includes information about Floatwheel and its products. Attached as Exhibit B to my declaration is a listing of 63 videos I downloaded from the Floatwheel YouTube channel, along with a true and correct copy of a screenshot of the Floatwheel YouTube channel "Community" page, all of which I accessed and obtained from my office in Portland, Oregon on October 2, 2024 using a VPN.

5. Access to Floatwheel's recently published YouTube videos from the United States does not even require a VPN, because anyone with the correct URL for the video can navigate directly to it. For example, attached as Exhibit C to my declaration are true and correct copies of screenshots I obtained on October 17, 2024 of the following videos on the Floatwheel YouTube channel, by navigating directly to the corresponding URL without using a VPN:

- <https://www.youtube.com/watch?v=jeVTHSqb008>
- <https://www.youtube.com/watch?v=f1nC6JayXS8>

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. DATED: October 17, 2024.


Shawn J. Kolitch